

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

## CHANGE CAPITAL MANAGEMENT, LLC,

Case No: 8:24-cv-00050-DOC-ADS

**Plaintiff,**

V.

THE CHANGE COMPANY CDFI LLC  
and CHANGE LENDING, LLC,

**STIPULATED ORDER RE:  
DISCOVERY OF  
ELECTRONICALLY STORED  
INFORMATION**

[DISCOVERY DOCUMENT:  
REFERRED TO MAGISTRATE  
JUDGE AUTUMN D. SPAETH]

## Defendants

## **J. PURPOSE**

This Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Local Rules, this Court’s Standing Order on Discovery Disputes, and any other applicable orders and rules. Nothing in this order is intended to alter or affect any party’s rights or obligations under any order by the assigned District Judge, but shall be construed instead, wherever possible, as consistent with any order by the assigned District Judge.

1 **II. COOPERATION**

2 The parties are aware of the importance the Court places on cooperation and  
3 commit to cooperate in good faith throughout the matter consistent with this Court's  
4 Standing Order on Discovery Disputes, the Federal Rules of Civil Procedure, and the  
5 Local Rules of this Court. The parties acknowledge that they have reviewed and shall  
6 reference the Court's Checklist for Conference of Counsel Regarding ESI during any  
7 Rule 26 conference and when seeking to resolve discovery disputes about ESI during  
8 meet-and-confer conferences.

9 As in all cases, costs may be shifted for disproportionate ESI production  
10 requests pursuant to Federal Rule of Civil Procedure 26. Likewise, a party's  
11 nonresponsive or dilatory discovery tactics are cost-shifting considerations. A party's  
12 meaningful compliance with this Order and efforts to promote efficiency and reduce  
13 costs will be considered in cost-shifting determinations.

14 **III. DATA SOURCES AND PRODUCTION FORMAT**

15 The following data sources are not considered reasonably accessible and will  
16 not be discoverable or subject to retention or preservation, given the disproportionate  
17 cost of retaining, maintaining, searching, and reviewing the categories in comparison  
18 to the information contained therein: employee SMS or "text" messages; instant  
19 messages; employee electronic calendar entries; information stored in personal data  
20 assistants (PDS); "deleted," "slack," "fragmented," or "unallocated" data on hard  
21 drives; random access memory (RAM) or other ephemeral data; on-line access data  
22 such as temporary internet files, history, cache, cookies, etc.; data in metadata fields  
23 that are frequently updated automatically, such as last opened data, and not  
24 specifically required in **Appendix A**; backup data that is substantially duplicative of  
25 data that is more accessible elsewhere; and other forms of ESI whose preservation  
26 requires extraordinary affirmative measure that are not utilized in the ordinary course  
27 of business.

28 The parties are to produce responsive ESI intact at the family level, including

1 all attachments; however, a party need not produce attachments to items included on  
2 a privilege log unless those items are responsive, unique, material, non-duplicative  
3 and not privileged.

4 **IV. SEARCH PROCEDURE**

5 A. Email production requests shall identify the custodian, search terms, and  
6 time frame. The parties shall cooperate to identify the proper custodians, proper  
7 search terms and proper timeframe.

8 B. Each requesting party shall limit its email production requests to a total  
9 of eight custodians per producing party for all such requests. The parties may jointly  
10 agree to modify this limit without the Court's leave. The Court shall consider  
11 contested requests for additional custodians, upon showing a distinct need based on  
12 the size, complexity, and issues of this specific case. Should a party serve email  
13 production requests for additional custodians beyond the limits agreed to by the  
14 parties or granted by the Court pursuant to this paragraph, the requesting party may  
15 bear all reasonable costs caused by such additional discovery.

16 C. Each requesting party shall limit its email production requests to a total  
17 of five search terms per custodian per party. The parties may jointly agree to modify  
18 this limit without the Court's leave. The Court shall consider contested requests for  
19 additional search terms per custodian, upon showing a distinct need based on the size,  
20 complexity, and issues of this specific case. The Court encourages the parties to confer  
21 on a process to test the efficacy of the search terms. The search terms shall be narrowly  
22 tailored to particular issues. Indiscriminate terms, such as the producing company's  
23 name or its product name, are inappropriate unless combined with narrowing search  
24 criteria that sufficiently reduce the risk of overproduction. A conjunctive combination  
25 of multiple words or phrases (e.g., "computer" and "system") narrows the search and  
26 shall count as a single search term. A disjunctive combination of multiple words or  
27 phrases (e.g., "computer" or "system") broadens the search, and thus each word or  
28 phrase shall count as a separate search term unless they are variants of the same word.

1 Use of narrowing search criteria (e.g., “and,” “but not,” “w/x”) is encouraged to limit  
2 the production and shall be considered when determining whether to shift costs for  
3 disproportionate discovery. In the requests for the production of electronic mail, the  
4 requesting party shall include the relevant timeframe for which the producing party  
5 must search for discoverable electronic mail for each custodian. Once the producing  
6 party has applied the search terms to each identified custodian for the requested time  
7 frame(s), the parties will discuss the number of results. At that time, the parties will  
8 discuss a number at which email search results are capped, if necessary to avoid undue  
9 burden on the producing party. If the producing party’s search results exceeds the  
10 agreed upon number after limiting it by time frame and search terms, the parties will  
11 work in good fair to renegotiate the time frame and/or search terms to make the  
12 discovery less burdensome. If the parties are unable to reach an agreement with regard  
13 to the number at which email search results should be capped, the producing party  
14 may move for a protective order that requests narrower search terms. Should a party  
15 serve email production requests with search terms beyond the limits agreed to by the  
16 parties or granted by the Court pursuant to this paragraph, this shall be considered in  
17 determining whether any party shall bear all reasonable costs caused by such  
18 additional discovery.

19       D. The receiving party must not use ESI that the producing party asserts is  
20 attorney-client privileged or protected work product to challenge the privilege or  
21 protection.

22       E. Nothing in this Order prevents the parties from agreeing to use  
23 technology assisted review and other techniques insofar as their use improves the  
24 efficacy of discovery.

25       F. In responding to General ESI and email production requests under Fed.  
26 R. Civ. P. 34 and 45, the parties will comply with the specifications set forth in  
27 **Appendix A**, absent a showing of good cause.

28       G. The parties are not obligated to produce duplicates of the same electronic

1 document or electronic mail file so long as the metadata is the same.

2       H. The parties are not obligated to search archives or repositories that  
3 contain electronic documents with creation or modification dates that indicate that the  
4 documents are not relevant to any claims or defenses in this case.

5 **V. PHASED DISCOVERY**

6       General ESI production requests under Federal Rules of Civil Procedure 34 and  
7 45 shall not include email or other forms of electronic correspondence (collectively  
8 “email”). To obtain email parties must propound specific email production requests.  
9 Email production requests shall only be propounded for specific issues, rather than  
10 general discovery of a product or business.

11       Email production requests shall be phased to occur after the parties have  
12 exchanged initial disclosures and basic documentation about the patents, the prior art,  
13 the accused instrumentalities, and the relevant finances. While this provision does not  
14 require the production of such information, the Court encourages prompt and early  
15 production of this information to promote efficient and economical streamlining of  
16 the case.

17 **VI. DOCUMENTS PROTECTED FROM DISCOVERY**

18       A. Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-  
19 product-protected document, whether inadvertent or otherwise, is not a waiver of  
20 privilege or protection from discovery in this case or in any other federal or state  
21 proceeding. Nothing contained herein, however, is intended to limit a party’s right to  
22 conduct a review of ESI for relevance, responsiveness and/or privilege or other  
23 protection from discovery.

24       B. The mere production of ESI in a litigation as part of a mass production  
25 will not itself constitute a waiver for any purpose.

26       C. In no event shall this stipulation be construed to negate a party’s assertion  
27 of privilege or attorney-work product as to any ESI, nor to waive any appropriate  
28 objection as to relevance, proportionality or overbreadth. ESI that contains privileged

1 information or attorney-work product shall be immediately returned if the documents  
2 appear on their face to have been inadvertently produced or if there is notice of the  
3 inadvertent production within thirty (30) days of such. In all other circumstances, Fed.  
4 R. Civ. P. 26(b)(5)(B) shall apply.

5 D. Communications involving trial counsel that post-date the filing of the  
6 complaint need not be placed on a privilege log. Communications may be identified  
7 on a privilege log by category, rather than individually, if appropriate.

8 **VII. MODIFICATION**

9 This Stipulated Order may be modified by a Stipulated Order of the parties or  
10 by the Court for good cause shown.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **APPENDIX A**

2 **IMAGES**

3 The parties agree to produce electronic documents, except for those set forth in  
4 Subsection (b) below, in single page 300 dpi group IV (1 bit) TIFF format for  
5 black/white documents and single page JPG format for color documents. The parties  
6 agree to produce paper and hard copy documents in single page 300 dpi group IV (1  
7 bit) TIFF format for black/white documents and single page JPG format for color  
8 documents.

9 The parties may produce in black/white if the color is not necessary to  
10 efficiently review or interpret the document. The receiving party may request copies  
11 of specific documents in color.

12 TIFF files shall be named as e.g., “<PageID>.TIF” with no spaces in the file  
13 name. JPG images shall be named as e.g., “<PageID>.JPG” with no spaces in the file  
14 name.

15 Produced images will be provided in a folder called “IMAGES” on the  
16 production media. All TIFF/JPG images for a single document will be in one subfolder  
17 within the IMAGES folder, and the number of image files in any one subfolder will  
18 not exceed 1000.

19 Each image shall be branded with the unique Bates number and the  
20 confidentiality designation, if any.

21 The parties each reserve the right to request and receive native files for  
22 produced image records where visibility, usability, or functionality is impaired by the  
23 image/extracted text formatting.

24 **NATIVE FILES**

25 File types which do not render in a usable manner when converted to image  
26 with extracted text, such as Microsoft Excel, spreadsheets, audio or video files,  
27 CAD/drawing files, multimedia files, and any other similar file types which may  
28 necessitate the need to review natively shall be produced in native format.

1 All native files must have a corresponding image placeholder with the correct  
2 Bates Begin number and confidentiality designation, if any, and information in the  
3 relevant load file sufficient to permit the native files to be associated with the relevant  
4 metadata.

5 The file name of each native file will equal the production BATESBEG number  
6 of the corresponding page and have the same file extension as the original, with a  
7 corresponding path reference appearing in the File-Path field of the load file. Natives  
8 files will be provided in a folder called “NATIVES” on the production media.

9 The parties each reserve the right to request and receive native files for  
10 produced records where visibility, usability, or functionality is impaired by  
11 image/extracted text formatting.

12 **BATES STAMPING**

13 The parties agree to stamp every document produced with a unique Bates  
14 number. Bates numbers must be a constant length that is zero padded (e.g.,  
15 ABC0000001). Bates numbers cannot contain space. Bates numbers must be  
16 sequential within a document. If a Bates number is skipped, that number should be  
17 contained in the privilege log or the responding party must notify the requesting party  
18 of the skipped Bates range.

19 **TEXT FILES**

20 Extracted text will be produced, if possible, for all ESI records and all imaged  
21 hard copy documents in a document level, multi-page text file format, with a  
22 corresponding path reference appearing in the Text Precedence field of the load file.  
23 If a record does not have extractable text, then an industry-standard optical character  
24 recognition process will be executed, and OCR-rendered text will be provided in the  
25 multi-page text file instead.

26 The file name of each text file will equal the production BEGBATES number  
27 of the corresponding page and have a .txt file extension. The text files will be provided  
28 in a folder called “TEXT” on the production media.

1 **CONFIDENTIALITY DESIGNATIONS**

2       Responsive documents in TIFF or JPG format shall be stamped with the  
3 appropriate confidentiality designation in the left footer in accordance with the  
4 Stipulated Protective Order in this matter. Each responsive document produced in  
5 native format shall have its confidentiality designation stamped in the left footer of  
6 the corresponding image placeholder. Confidentiality designations shall be included  
7 in the metadata fields provided in the load files.

8

9 **DATA AND IMAGE LOAD FILES**

10      Associated metadata and links to the .txt files and native files, where applicable,  
11 for each produced record will be provided in a document level delimited load file  
12 format (“.dat”). This load file shall have a header row, with each line representing one  
13 document.

14      All of the metadata field information that is available from the native ESI source  
15 files will be extracted therefrom and will not be altered or modified from the original.  
16 The metadata provided in the .dat load file shall include the following fields:

FIELD NAME	CONTENTS
BATESBEG	Beginning production number
BATESEND	Ending production number
BEGATTACH	Beginning production number of parent in a family
ENDATTACH	Ending production number of last page of the last attachment in a family
ATTACHCOUNT	Number of attachments
PAGECOUNT	Number of pages in document for documents produced in TIFF/JPG form. For documents produced in native, page count will be 1 (for placeholder).
CUSTODIAN	Custodian that possessed the document, email, or

1	FIELD NAME	CONTENTS
2		electronic file
3	DUPLICATE CUSTODIANS	Other custodian(s) that possessed the document, email, or electronic file; multiple custodians separated by semicolon
4		
5	FILE NAME	Native of original electronic file as collected
6	EMAIL SUBJECT	Subject field extracted from email message
7	FILEEXT	File extension for email or electronic document
8	FILESIZE	Size of application file document/email in KB
9		
10	ORIGINALFOLDERPATH	Original source file path for the record produced
11	MD5HASH	Unique electronic signature hash value of email or electronic file
12	SHA1HASH	Unique electronic signature hash value of email or electronic file
13		
14	AUTHOR	Author information as derived from the properties of the document
15		
16	TITLE	Title of the document as derived from the properties of the document
17		
18	DATE CREATED	Date non-email electronic file was created as extracted from file system metadata (mm/dd/yyyy format)
19		
20	TIME CREATED	Time non-email electronic file was created as extracted from file system metadata (hh:mm format)
21		
22	DATE LAST MOD	Date non-email electronic file was modified as extracted from file system metadata (mm/dd/yyyy format)
23		
24	TIME LAST MOD	Time non-email electronic file was modified as extracted from file system metadata (hh:mm format)
25		
26	EMAIL FROM	“From” field as extracted from email message
27	EMAIL TO	“To” field as extracted from email message
28		

1	FIELD NAME	CONTENTS
2	EMAIL CC	“CC” or “carbon copy” field as extracted from email message
3	EMAIL BCC	“BCC” or “blind carbon copy” field as extracted from email message
4	DATE SENT	Sent date of email message (mm/dd/yyyy format)
5	TIME SENT	Sent time of email message, time zone set to UTC (hh:mm format)
6	DATE RECEIVED	Received date of email message (mm/dd/yyyy format)
7	TIME RECEIVED	Received time of email message, time zone set to UTC (hh:mm format)
8	TIMEOFFSET	Relativity Native Time Zone Offset
9	CONFIDENTIALITY	Text of Confidentiality Designation, if any, in language as provided by the Stipulated Protective Order
10	MARKUP SET – PRODUCTION MARKUP	Identifies whether a document contains redactions
11	TEXT PRECEDENCE	Relative File Path to *.txt file containing Extracted or OCR text within the TEXT folder
12	FILE_PATH	Relative file page to each native file on production media provided within the NATIVES folder

21 The parties agree that each party may use the standard field names as they appear in their eDiscovery review software database, provided that the contents of such fields remain consistent as those outlined in the table above.

22 A properly formatted image load file (“.opt”) will be provided with the TIFF/JPG images as a page level delimited load file to load images, with each line representing one image. This load file shall have ANSI/Western European encoding.

23 Metadata and image load files (.dat and .opt) will be provided in a folder called “DATA” on the production media.

1 **TIME ZONE**

2 The time stamps and metadata for all records shall be normalized to UTC.

3 **HIDDEN CONTENT AND TRACKED CHANGES**

4 Microsoft Word and other word processing files will be rendered to TIFF/JPG  
5 images so as to show tracked changes, hidden text, comments, headers, and field  
6 codes. Microsoft PowerPoint and other presentation slides will be rendered to  
7 TIFF/JPG images with full page slides, with all hidden slides and comments visible,  
8 and with any notes and/or summaries appended at the end.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **IT IS SO STIPULATED**, through Counsel of Record.

2 Dated: August 9, 2024

Respectfully Submitted,

3 By: /s/ Brendan R. Zee-Cheng

4 Mhare Mouradian (SBN 233813)

5 mhare.mouradian@huschblackwell.com

6 L. Scott Oliver (SBN 174824)

7 scott.oliver@huschblackwell.com

8 HUSCH BLACKWELL LLP

9 355 South Grand, Suite 2850

10 Los Angeles, CA 90071

11 213.337.6550 Telephone

12 213.337.6551 Fax

13 Jennifer E. Hoekel (*pro hac vice*)

14 jennifer.hoekel@huschblackwell.com

15 Brendan R. Zee-Cheng (*pro hac vice*)

16 brendan.zee-

17 cheng@huschblackwell.com

18 HUSCH BLACKWELL LLP

19 8001 Forsyth Blvd., Suite 1500

20 St. Louis, MO 63105

21 314-480-1500 Telephone

22 314-480-1505 Facsimile

23 **Attorneys for Plaintiff Change Capital  
Management LLC**

24 By: /s/ Jonathan C. Cahill (with permission)

25 Ian A. Rambarran, Bar No. 227366

26 irambarran@Klinedinstlaw.com

27 Jonathan C. Cahill, Bar No. 287260

28 jcahill@klinedinstlaw.com

KLINEDINST PC

801 K Street, Suite 2100

Sacramento, California 95814

(916) 282-0100/FAX (916) 444-7544

29 **Attorneys for THE CHANGE COMPANY  
CDFI LLC and CHANGE LENDING, LLC**

30 **FILER'S ATTESTATION**

31 In compliance with Civil L.R. Rule 5-4.3.4(a)(2)(i), I hereby attest that all  
32 parties have concurred in the filing of this Stipulation.

33 By: /s/ Brendan R. Zee-Cheng

34 **IT IS ORDERED** that the forgoing Agreement is approved.

35 Dated: 08/29/2024

36 /s/ Autumn D. Spaeth

37 HONORABLE AUTUMN D. SPAETH  
38 United States Magistrate Judge